

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DISTRICT

UNITED STATES OF AMERICA,

Plaintiff,

v.

VERTAC CHEMICAL CORPORATION,
et al.

Defendants.

No. LR-C-80-109

**SETTLEMENT AGREEMENT, STIPULATED ORDER AND JUDGMENT
CONCERNING DEFENDANTS HERCULES INCORPORATED AND UNIROYAL
CHEMICAL LTD. (n/k/a CHEMTURA CANADA CO./CIE.)**

Plaintiff the United States of America ("United States") and defendant Hercules Incorporated ("Hercules") and defendant Uniroyal Chemical Ltd. ("Uniroyal" n/k/a Chemtura Canada Co./Cie.) (collectively referred to as the "Defendants") hereby enter into this Settlement Agreement, Stipulated Order and Judgment ("Settlement Agreement") to settle the United States' claims against Defendants for the recovery of all response costs, including interest, incurred or paid from June 1, 1998 through September 1, 2008, in connection with the Vertac Inc. Superfund Site ("Vertac Site") in Jacksonville, Arkansas, and the Jacksonville Municipal Landfill Superfund Site ("Jacksonville Site") also in Jacksonville, Arkansas (collectively, the "Sites"), under the Comprehensive, Environmental, Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601, et seq.

WHEREAS, in the Final Judgment entered in this cause on June 9, 2005, following a March 31, 2005 Memorandum Opinion and Order, this Court held that Defendants were jointly

and severally liable to the United States under CERCLA Section 107(a), 42 U.S.C. § 9607(a), for all past and future response costs for the following amounts: (1) Hercules, in the amount of \$119,318,504, plus any additional response costs incurred or to be incurred on or after June 1, 1998, and (2) Uniroyal, in the amount of \$110,410,161, plus any additional response costs incurred or to be incurred on or after June 1, 1998.

WHEREAS, on May 18, 2007, the United States received payments of \$3,068,974.76 from Uniroyal and \$124,492,271.66 from Hercules in satisfaction of the Court's June 9, 2005 Judgment for response costs incurred up to June 1, 1998, including interest. Those payments did not apply to costs incurred or to be incurred on or after June 1, 1998, plus interest.

WHEREAS, the parties hereto, desire to settle, compromise and resolve the United States' claim for response costs, including interest, with respect to the Sites, incurred and/or paid from June 1, 1998 until September 1, 2008.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged;

IT IS HEREBY STIPULATED and agreed to by and between the parties hereto, subject to the approval by the District Court, as follows:

1. Defendant Hercules shall pay to the United States the sum of \$14,494,921.86, in satisfaction of its joint and several liability pursuant to this Court's Order of June 9, 2005, for response costs, including interest, incurred and/or paid from June 1, 1998 through September 1, 2008 at the Sites (the "2008 Settlement Amount"). The 2008 Settlement Amount represents settlement of Hercules' liability to the United States for all response costs incurred and/or paid, including interest, from June 1, 1998 through September 1, 2008, with respect to the Sites. Following payment by Hercules of the 2008 Settlement Amount, Hercules'

liability for response costs from June 1, 1998 through September 1, 2008 shall be deemed paid in full, and the litigation seeking recovery of such costs shall be deemed to be concluded as to Hercules. Following payment of the 2008 Settlement Amount, Hercules shall, in accordance with the terms of the Final Judgment dated June 9, 2005, remain liable only for response costs which are both incurred and paid after September 1, 2008 with respect to the Sites.

2. Defendant Uniroyal shall pay to the United States the sum of \$380,111.92, in satisfaction of its joint and several liability pursuant to this Court's Order of June 9, 2005, for response costs, including interest, incurred and/or paid from June 1, 1998 through September 1, 2008 at the Vertac Site (the "2008 Settlement Amount"). The 2008 Settlement Amount represents settlement of Uniroyal's liability to the United States for all response costs incurred and/or paid, including interest, from June 1, 1998 through September 1, 2008, with respect to the Vertac Site. Following payment by Uniroyal of the 2008 Settlement Amount, Uniroyal's liability for response costs from June 1, 1998 through September 1, 2008 shall be deemed paid in full, and the litigation seeking recovery of such costs shall be deemed to be concluded as to Uniroyal. Following payment of the 2008 Settlement Amount, Uniroyal shall, in accordance with the terms of the Final Judgment dated June 9, 2005, remain liable only for response costs which are both incurred and paid after September 1, 2008 with respect to the Vertac Site.

3. Within fifteen (15) days of entry of this Settlement Agreement, payment shall be made by Hercules and Uniroyal, respectively, by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with current EFT procedures, referencing USAO File Number _____, the EPA Region and Site Spill ID Numbers 0604 (Vertac Site) and 06B6 (Jacksonville Site), and DOJ Case Number 90-7-1-18B. Payment shall be made in accordance with instructions provided to Hercules and Uniroyal, respectively, by the Financial

Litigation Unit of the U.S. Attorney's Office in the Eastern District of Arkansas following entry of the Settlement Agreement. Any payments received by the Department of Justice after 4:00 p.m. Eastern Time shall be credited on the next business day.

4. If Hercules and/or Uniroyal fail(s) to pay the agreed amount within the time stated in paragraph three (3) herein, the parties agree that interest will accrue at the post-judgment rate at the time of the signing of this Settlement Agreement.

5. This Settlement Agreement shall be binding upon the parties hereto, and upon their agents, successors and assigns.

6. The United States and Hercules and Uniroyal each reserves, and this Settlement Agreement is without prejudice to, all of the rights and defenses that the United States and Hercules and Uniroyal may each have with respect to each other, except as otherwise addressed herein.

7. This Settlement Agreement shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding this Settlement Agreement disclose facts or considerations which indicate that this Settlement Agreement is inappropriate, improper or inadequate. Settling Defendants consent to the entry of this Settlement Agreement without further notice. The date this Settlement Agreement shall become effective shall be the date it is signed and entered by the United States District Court.

IT IS SO ORDERED AND ADJUDGED:

Date: _____

WILLIAM R. WILSON, JR.
UNITED STATES DISTRICT JUDGE

Settlement Agreement, Stipulated Order and Judgment between the United States, Hercules Incorporated, and Uniroyal Chemical Ltd. (n/k/a Chemtura Canada Co./Cie.) in *United States v. Vertac Chemical Corp. et al.*, No. LR-C-80-109 (E.D.Ark.)

AGREED TO:

PLAINTIFF, UNITED STATES OF AMERICA: - -

Date: _____

KEVIN J. O'CONNOR
Associate Attorney General
United States Department of Justice

RONALD J. TEMPLAS /
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

SAMUEL D. BLESIE
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
Tel: (202) 514-1466

JANE DUKE
United States Attorney
Eastern District of Arkansas
Little Rock, AR 72203

STACEY E. McCORD
Assistant United States Attorney
Eastern District of Arkansas
P.O. Box 1229
Little Rock, AR 72203
Tel: (501) 340-2630

Settlement Agreement, Stipulated Order and Judgment between the United States, Hercules Incorporated, and Uniroyal Chemical Ltd. (n/k/a Chemtura Canada Co./Cie.) in *United States v. Vertac Chemical Corp. et al.*, No. LR-C-80-109 (E.D.Ark.)

AGREED TO:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Date: _____

SAMUEL COLEMAN, P.E.
Director, Superfund Division
U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733
Tel: (214) 665-6701

JAMES L. TURNER
Tex. Bar # 20317000
Senior Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733
Tel: (214) 665-3159

Settlement Agreement, Stipulated Order and Judgment between the United States, Hercules Incorporated, and Uniroyal Chemical Ltd. (n/k/a Chemtura Canada Co./Cie.) in *United States v. Vertac Chemical Corp. et al.* , No. LR-C-80-109 (E.D.Ark.)

AGREED TO:

DEFENDANT, UNIROYAL CHEMICAL LTD. (n/k/a CHEMTURA CANADA CO./CIE.)

Date: _____

GREGORY E. MCDANIEL

President

Chemtura Canada Co./Cie.

25 Erb Street

Elmira, Ontario

Canada

Tel: (519) 669-1671

STEVEN W. QUATTLEBAUM

Ark. Bar #321412

Quattlebaum, Grooms, Tull &

Burrow PLLC

111 Center Street, Ste. 1900

Little Rock, AR 72201

Tel: (501) 379-1700